

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

APR 09 2008

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

United States of America)

v.)

Brian Bacon)

Case No: 7:95CR00028-001USM No: 05217-084Date of Previous Judgment: December 17, 1996)

(Use Date of Last Amended Judgment if Applicable))

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____ to _____ months

Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
☐ Other (explain): _____

III. ADDITIONAL COMMENTS

Under 18 U.S.C. § 3582(c)(2), a defendant whose sentencing range was reduced by amendment to the sentencing guidelines may be eligible for a sentence reduction. Because the defendant was classified as a career offender based on his prior convictions, his base offense level was determined under U.S.S.G. § 4B1.1 and the statutory maximum for his offenses, not on the amount of crack cocaine involved in the offense. Thus, the 2007 amendments to the crack cocaine sentencing guidelines do not reduce the defendant's sentencing range, and he is not eligible for a sentence reduction under § 3582(c)(2).

Except as provided above, all provisions of the judgment dated 12/17/1996 shall remain in effect.

IT IS SO ORDERED.Order Date: April 9, 2008

[Signature]

 Judge's signature

Effective Date: _____
 (if different from order date)

James C. Turk, Senior United States District Judge
 Printed name and title